

DEPARTMENT OF STATE REVENUE

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ISSUE

Corporate Partner Distributions – Adjusted Gross Income Tax.

Authority: IC 6-3-1-19; IC 6-3-4-10; IC 6-3-4-11; 45 IAC 3.1-1-106; 45 IAC 3.1-1-153; Hunt Corp., Ind. Tax Court (1999)

IC 6-3-4-10. Partnership returns.

(a) [E]very partnership doing business in this state... and every partnership which has gross income derived from sources within this state, shall make a return for each taxable year... [1963]

IC 6-3-4-11. Partnerships not subject to tax.

(a) A partnership... shall not be subject to the adjusted gross income tax... [C]orporations carrying on business as partners shall be liable for the adjusted gross income tax... (based on)... each partner's... distributive share... [1980]

45 IAC 3.1-1-153. Taxation of a corporate partner.

(a) A corporate partner's share of profit or loss from a partnership will be included in its federal taxable income and therefore generally subject to the same rules as any other adjusted gross income. [1993]

I. GENERAL STATEMENT

A partnership doing business in Indiana is not subject to adjusted gross income tax but must file an information return reporting the proportionate share of profit or loss distributed to each partner. Each partner receiving a distribution from a partnership doing business in Indiana must file an adjusted gross income tax return and pay the tax calculated thereon less any tax withheld [FN 1] by the partnership at time of distribution.

The method of calculating a resident or a nonresident corporate partner's Indiana adjusted gross income is determined by the partner's business relationship with the partnership.

II. PARTNERSHIP DISTRIBUTIONS TO CORPORATE MEMBERS

A. Unitary Business Relationship

45 IAC 3.1-1-153(b)

If a corporate partner and its partnership maintain a unitary business relationship, the partnership distribution shall be distributed to the partner without any prior apportionment by the partnership. If the partner derives income from sources both within and without Indiana and is required to apportion its income, the partner's apportionment factors shall include the partner's proportionate share of the respective partnership factors.

B. Non-Unitary Business Relationship

45 IAC 3.1-1-153(c); (e)

If a corporate partner and its partnership do not maintain a unitary business relationship, the partnership distribution shall be distributed to the partner after any required apportionment by the partnership. The distribution, once apportioned to Indiana by the partnership, may not be included in any further apportionment calculations required on the partner's return.

III. UNITARY BUSINESS RELATIONSHIP [FN 2]

“Unitary business” means business activities or operations that are of mutual benefit, dependent upon, or contributory to one another in transacting business between a partnership and its corporate partners.

Unity may be established whenever there is unity of operation and use evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction between a partnership and its corporate partners.

When evaluating the existence of a partner/partnership unitary business relationship, the percentage of individual partner ownership is not relevant.

[FN 1] 45 IAC 3.1-1-107(a)(2)

[FN 2] For purposes of this document, refer to IC 6-5.5-1-18(a) and (b) for additional explanation.

IV. PARTNERSHIP DISTRIBUTION TO CORPORATE PARTNER



